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C O N F I D E N T I A L SECTION 01 OF 02 BEIJING 003499

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SUBJECT: MFA: PRC HISTORICAL CLAIMS TO SOUTH CHINA SEA NOT  
SUBJECT TO UNCLOS

REF: BEIJING 924

Classified By: Political Minister Counselor Aubrey Carlson. Reasons 1.  
4 (b/d).

11. (C) Summary: According to a MFA Treaty and Law Department official, China's territorial claims in the South China Sea outlined on PRC maps by the nine-segment dotted line (called "Cow's Tongue" or "Nine Dashes") do not contradict the 1982 UN Convention on Law of the Sea (UNCLOS). As a "reflection of history," the official argued, China's claims predate UNCLOS, and though these claims conflict with those of neighboring countries in the region, China will not submit its claims to the UNCLOS' dispute settlement mechanism. While both the MFA official and a Chinese Asia scholar claim historical evidence exists to justify the "Nine Dashes," neither could identify for PolOff specific references. End Summary.

China's SCS claim  
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12. (C) MFA Department of Treaty and Law Oceans and Law of the Sea Division Deputy Director Yin Wenqiang reiterated to PolOff August 30 China's well-known position on the South China Sea (SCS), saying "China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters." Yin stated that China's jurisdictional claims in the region -- defined by the so-called "Nine Dashes" or "Cow's Tongue," a nine-segment dotted line on PRC maps of the SCS first published by the Kuomintang Government in 1947 -- "do not contradict" the 1982 UN Convention on the Law of the Sea (UNCLOS). (Note: The SCS claims of China -- and because of the claim's original historical antecedent, Taiwan -- overlap exclusive economic zone and continental shelf claims of Vietnam, Indonesia, Malaysia, Brunei and the Philippines.) Adhering to the MFA's official presentation of its position (reftel), Yin avoided using the term "historic waters" to refer to China's SCS claim, saying that this may be a term used by some scholars, but not the Chinese Government.

UNCLOS and historical claims  
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13. (C) MFA's Yin stated that as a signatory nation of UNCLOS, China "could certainly claim" rights in the SCS through UNCLOS. China, in fact, declared a 12-nautical-mile baseline around the Paracel Islands and along its mainland coast in 11996. Yin added that China has no plans to declare a baseline around any of the Spratly Islands. He said that China's sovereignty over the islands and "rights to utilize economically and exercise jurisdiction" over China's claim "came much earlier than UNCLOS." Stating the area contained by the "Nine Dashes" is a "reflection of history," Yin said that "UNCLOS does not deny historical claims." Yin pointed to the various territorial disputes extant in the SCS, saying "UNCLOS cannot clarify everything." Hence, China continues

to promote the "shelve differences, mutual development" approach to addressing economic development activities in the SCS and other disputed areas. China will not refer its SCS claim to dispute settlement procedures established in UNCLOS, because, Yin said, "it is not in China's tradition" to submit to such compulsory or binding decision mechanisms. When queried as to why China acceded to UNCLOS, Yin commented that China became a signatory nation because neighboring countries in the SCS joined, and China believes its SCS claim is not threatened by UNCLOS.

Basis of historical claim unclear  
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14. (C) Yin admitted he is not aware of the historical basis for the "Nine Dashes," though he said Chinese historical documents indicate the basis for placement of the dashes on SCS maps. Beijing University Asia scholar Yang Baoyun told PolOff separately that China's SCS claims date back to ancient times, prior to the development of the modern nation-state. Hence, as the modern Chinese nation-state developed in the 20th century, under the Kuomintang and then Communist rule, China became increasingly confident of its identity and its borders. Neither MFA's Yin nor Beijing University's Yang could specify a historical document that indicated the basis for the demarcation of the "Nine Dashes."

Yang referred to a 2000 MFA "white paper" on the SCS. This document provides a survey of China's historical and legal claims in SCS but focuses mainly on evidence of Chinese sovereignty over the Spratly and Paracel Islands and other reefs and features. For example, the white paper cites Japan's relinquishment of sovereignty over the islands in the

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SCS after World War II to support China's claim to sovereignty over the Paracel and Spratly Islands. However, the white paper devotes little attention to the history of the "Nine Dashes," providing, for example, only vague references to areas frequented by Chinese fisherman from Hainan.

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